

M. ROBERT KESTENBAUM, LLC  
PATENT AND TRADEMARK MATTERS

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JUN 14 2006

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
OIPE LIE	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	6/14/2006
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(571) 273 8300	12
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(571) 272 1630	(Z) 98003 P US 2
RE:	YOUR REFERENCE NUMBER:
Further Preliminary Amendment	10/826,823 (Wagner)

NOTES/COMMENTS:

Dear LIE:

Enclosed you will find a 9 page Further Preliminary Amendment in response to the Notice of Non-Compliant Amendment mailed 04/28/2006, together with a certificate of fax transmission for 6/14/2006.

Applicant respectfully believes that this submission places the application in condition for forwarding to the appropriate art unit for examination.

Thank you for your time in considering this submission.

Sincerely,



M. Robert Kestenbaum  
Reg. No. 20,430

11011 BERMUDA DUNES NE  
ALBUQUERQUE, NEW MEXICO USA 87111  
PHONE (505) 323-0771  
FAX (505) 323-0865

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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,823	04/15/2004	Christian Wagner	(Z)98003 PUS2	1743

7590

04/28/2006

M. Robert Kestenbaum  
11011 Bermuda Dunes NE  
Albuquerque, NM 87111

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

JUN 14 2006

06/14/2006 21:32 FAX 5053230865

M OBERT KESTENBAUM

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10826823

Applicant(s)

Examiner

Art Unit

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 04/15/04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

**THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:**

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other amendments to the specification must be entire paragraphs.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_
- ☒ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeliver.pdf>.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given no new time period if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or  
Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Sharon Surle  
Legal Instruments Examiner (LIE)

(571) 272-1630  
Telephone No.

I.S. Patent and Trademark Office  
TOL-324 (08-05)

Notice of Non-Compliant Amendment (37 CFR 1.121)

Part of Paper No.

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**JUN 14 2006**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re: Continuation Application for US Parent Patent Application 09/934,817  
US Patent Application 10/826,823  
Filed 04/15/2004  
Applicant Wagner et al  
Attorney Docket (Z) 98003 PUS2

Mail Stop OIPE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**Further Preliminary Amendment**

This responds to the Notice of Non-Compliant Amendment mailed on  
04/28/2006.

The claims in this application are set forth on the following pages, with status  
identifiers:

Wagner  
(Z)98003PUS2  
Continuation of US Patent Application 09/934,817

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